

IN RE: PETITION FOR ZONING VARIANCE
E/S Larlin Road, 94' S of
Walk Avenue
(5205 Larlin Road)
13th Election District
1st Councilmanic District
Robert L. McElroy, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-15-A
*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Zoning Variance filed by the legal owners of the subject property, Robert L. and Jeannette McElroy. The Petitioners request relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5 feet in lieu of the minimum required 10 feet for a proposed addition in accordance with Petitioner's Exhibit 1.

The Petitioners originally filed their request through the Administrative Variance procedure. After a preliminary review of the case file, the Zoning Commissioner requested that a public hearing be held to determine the appropriateness of the relief requested.

At the hearing, Robert L. and Jeannette McElroy appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 5205 Larlin Road, consists of 6,000 sq.ft., more or less, zoned D.R. 5.5 and is improved with a single family dwelling and a shed. Petitioners are desirous of constructing a 6' x 13' addition on the east side of the existing dwelling, approximately halfway between the front and rear of this structure. The Petitioners testified that the proposed addition is needed to provide a walk-in closet for the master bedroom which is located in the center of the dwelling, on the east side. Testimony indicated that due to

the layout of the dwelling and its location on the lot, which is only 50-feet wide, the requested variance is necessary. Petitioners testified that it would be impractical to construct the proposed addition on the rear of the dwelling as a family room the entire width of the dwelling exists across the back of the house. Further testimony indicated that the shed located to the rear of the property provides storage space for their lawn and garden equipment and would not be practical for the storage of clothing and personal items. The Petitioners testified that the proposed addition will be shielded from the front by an existing carport. Further testimony indicated that the Petitioners have discussed their plans with their neighbors who have no objections. Testimony and evidence presented indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

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It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 20th day of October, 1992 that the Petition for Zoning Variance requesting relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5 feet in lieu of the minimum required 10 feet for a proposed addition in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is

- 3 -

reviewed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

10/20/92

ORDER RECEIVED FOR FILING
Date 10/20/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/20/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/20/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/20/92
By [Signature]

1-

Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

October 20, 1992

Mr. & Mrs. Robert L. McElroy
5205 Larlin Road
Arbutus, Maryland 21227

RE: PETITION FOR ZONING VARIANCE
E/S Larlin Road, 94' S of Walk Avenue
(5205 Larlin Road)
13th Election District - 1st Councilmanic District
Robert L. McElroy, et ux - Petitioners
Case No. 93-15-A

Dear Mr. & Mrs. McElroy:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

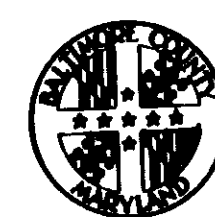
Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: People's Counsel

file



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 5205 Larlin Road, Arbutus, MD 21227
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 to permit A
Side Setback of 5 feet in lieu of the required 10 foot (for a proposed 6'x13' Addition)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

* SEE ATTACHED

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Current Purchaser/Owner

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City State Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s):

Robert L. McElroy

(Type or Print Name)

Jeannette McElroy

(Type or Print Name)

5205 Larlin Road (410) 247-1121

Address

Arbutus, Maryland 21227

City State Zipcode

Name

Address

City State Zipcode

ORDER RECEIVED FOR FILING
Date 10/21/92
By [Signature]

REVIEWED BY [Signature] DATE 7/21/92
REMARKS FOR FILING DATE 8/19/92

Zoning Commissioner of Baltimore County

ITEM #:

Affidavit in support of Administrative Variance

The undersigned hereby affirm under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) here competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) presently reside at 5205 Larlin Road

Arbutus, Maryland 21227

City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance of the above address: (Indicate hardship or practical difficulty)

* SEE ATTACHED

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reporting and advertising fee and may be required to provide additional information.

Robert L. McElroy Jeannette McElroy

Robert L. McElroy Jeannette McElroy

(Type or Print Name) (Type or Print Name)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to-wit:

I HEREBY CERTIFY, this 21 day of July, 92, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Robert & Jeannette McElroy

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal.

7/21/92

My Commission Expires: 6/1/94

HARDSHIPS OR PRACTICAL DIFFICULTY:

93-15-A 26

Due to the architectural layout of our existing home, we are unable to generate additional closet space desperately required. The master bedroom is located on the North side approximately one-half the distance between the front and rear of the house.

The family room extends across the entire rear of the house, making the side extension the only alternative that intergrades with our floor plan and the master bedroom.

Please consider the dilemma and hardship which we are faced with.

Thank you,
Robert & Jeannette McElroy

THE DESCRIPTION:

ZONING DESCRIPTION FOR 5205 Larlin Road

Beginning at a point on the North side of Larlin Road which is 94 feet wide at the distance of South of the centerline of the nearest improved intersecting street Walk Avenue which is 50 feet wide. "Being Lot #137, Block (-), Section (-), in the subdivision of Arbutus as recorded in Baltimore County Plat Book #4, Folio #87, containing 6,000 sq.ft. or 1 1/2 ac. Also known as 5205 Larlin Road and located in the 13th Election District.

DPW/Developers Engineering Division (Public Services) 08/06/92
Development Review Committee Response Form
Authorized signature *Denise A. Borsetti* Date *8/10/92*

Project Name	Waiver Number	Zoning Issue	Meeting Date
✓ Raymond F. And Deborah D. Borsetti	25		8-3-92 NC
DED DEPRM RP STP TE			
✓ Robert L. And Jeannette McElroy	26		NC
DED DEPRM RP STP TE			
✓ Gary G. And Ilene S. Waitt	27		NC
DED DEPRM RP STP TE			
✓ Bruce P. And India Y. Curry	0		NC
DED DEPRM RP STP TE			
✓ Herbert B. And Edith G. Querido			NC
DED DEPRM RP STP TE			
✓ Emma E. Hubbard	8		NC
DED DEPRM RP STP TE			
✓ Arthur Thomas Ward, III	9		NC
DED DEPRM RP STP TE			

COUNT 14
FINAL TOTALS
COUNT 17
*** END OF REPORT ***

BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING AND ZONING
New Courts Building
401 Bosley Avenue
Towson, MD 21204

MEMORANDUM

TO: Arnold Jablon, Director - Zoning Administration & Development Management

FROM: Ervin McDaniel, Chief Development Review Section
Office of Planning and Zoning

DATE: August 4, 1992

SUBJECT: PETITIONS FROM ZONING ADVISORY COMMITTEE - August 3, 1992

The Office of Planning and Zoning has no comments on the following petitions:

BRUCE & INDIA CURRY - ITEM 6
HISBARD, EMMA - ITEM 8
BORSETTI, RYMOND & DEBORAH - ITEM 25
MCELROY, ROBERT & JEANNETTE - ITEM 26
WORTHMAN, JOHN & MARY - ITEM 17
WARD, ARTHUR THOMAS - ITEM 9

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning and Zoning at 887-3211.

RECEIVED
AUG 11 1992
ZONING OFFICE

8.3.92.TXT
Petitns.txt

DPW/Traffic Engineering
Development Review Committee Response Form
Authorized signature *Kahen j Family* Date *8/10/92*

Project Name	Waiver Number	Zoning Issue	Meeting Date
Stonegate at Patapsco (Azreal Property)			
90476			6-1-92
ZON DED TE (Waiting for developer to submit plans first)			

COUNT 1

Eugene C. Salvo 18 W/C 7-27-92

DEPRM RP TE

COUNT 1

✓ Lois L. Ruckman 10 N/C 8-3-92

DED DEPRM RP STP TE

Colonial Village Company 19 M/T

DED DEPRM RP STP TE

✓ James W. Jr. And Terry A. Hooke 20 N/C

DED DEPRM RP STP TE

Arthur G. And Helen P. Magsamen 21 W/C

DED DEPRM RP STP TE

Fuchs Spices, U.S.A., Inc. 22 W/C

DED DEPRM RP STP TE

Susan J. Blum 23 M/T

DED DEPRM RP STP TE

✓ Elise Boyce Kelsey, Trustee u/w Eliza Gillet Boyce Et Al 24 N/C

DED DEPRM RP STP TE

✓ Raymond F. And Deborah D. Borsetti 25 N/C

DED DEPRM RP STP TE

✓ Robert L. And Jeannette McElroy 26 N/C

DED DEPRM RP STP TE

Baltimore County Government
Fire Department
700 East Joppa Road, Suite 901
Towson, MD 21204-5500
AUGUST 6, 1992 (410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: ROBERT L. MCELROY AND JEANNETTE MCELROY
Location: #5205 LARLIN ROAD
Item No.: *26 (JLL) Zoning Agenda: AUGUST 3, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Not Available* Noted and
Planning Group Approved
Special Inspection Division Fire Prevention Bureau

JP/KEK

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AUG 01 1992
ZONING OFFICE

Department of Recreation and Parks
Development Review Committee Response Form
Authorized signature *Walter* Date *8/10/92*

Project Name	Waiver Number	Zoning Issue	Meeting Date
✓ Elise Boyce Kelsey, Trustee u/w Eliza Gillet Boyce Et Al	24		8-3-92
DED DEPRM RP STP TE		No Comment	
✓ Raymond F. And Deborah D. Borsetti	25		No Comment
DED DEPRM RP STP TE		No Comment	
✓ Robert L. And Jeannette McElroy	26		No Comment
DED DEPRM RP STP TE		No Comment	
✓ Gary G. And Ilene S. Waitt	27		No Comment
DED DEPRM RP STP TE		No Comment	
✓ Bruce P. And India Y. Curry	6		No Comment
DED DEPRM RP STP TE		No Comment	
✓ Herbert B. And Edith G. Querido	7		No Comment
DED DEPRM RP STP TE		No Comment	
✓ Emma E. Hubbard	8		No Comment
DED DEPRM RP STP TE		No Comment	
✓ Arthur Thomas Ward, III	9		No Comment
DED DEPRM RP STP TE		No Comment	

COUNT 14
FINAL TOTALS
COUNT 19
*** END OF REPORT ***

93-15-A 8-24
RECEIVED
AUG 28 1992
ZONING COMMISSIONER

Department of Environmental Protection & Resource Management
Development Review Committee Response Form
Authorized signature *Denise A. Borsetti* Date *8-24-92*

Project Name	Waiver Number	Zoning Issue	Meeting Date
✓ Lois L. Ruckman	10		8-3-92
DEPRM STP		no comments	
Colonial Village Company	19		improves
DEPRM STP TE		written comments	
James W. Jr. And Terry A. Hooke	20		
DEPRM			
Fuchs Spices, U.S.A., Inc.	22		improves
DEPRM STP		improves	
Susan J. Blum	23		improves
DEPRM STP TE			
Elise Boyce Kelsey, Trustee u/w Eliza Gillet Boyce Et Al	24		improves
DEPRM STP			
✓ Raymond F. And Deborah D. Borsetti	25		no comments
DEPRM			
✓ Robert L. And Jeannette McElroy	26		no comments
DEPRM			
✓ Gary G. And Ilene S. Waitt	27		no comments
DEPRM STP			
Bruce P. And India Y. Curry	6		written comments
DEPRM			
Herbert B. And Edith G. Querido	7		written comments
DEPRM			
Arthur Thomas Ward, III	9		improves
DEPRM			

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
AUGUST 28, 1992 (410) 887-3353

Robert and Jeannette McElroy
5205 Larlin Road
Arbutus, Maryland 21227

Re: CASE NUMBER: 93-15-A

Dear Petitioners:

Please be informed that your file has been reviewed. The Commissioner's Office did not grant or deny the requested relief. Instead it was determined that this matter be set in for public hearing.

As you recall, it now becomes necessary to repost the property and run notice of the hearing in two local newspapers and that you will be billed for the reposting and advertising costs.

Formal notification of the hearing date will be forwarded to you shortly.

Very truly yours,
Laurence E. Schmidt
Laurence E. Schmidt
Zoning Commissioner
of Baltimore County, Maryland

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning
111 West Chesapeake Avenue
Towson, MD 21204
JULY 30, 1992 (410) 887-3353

Robert L. McElroy and Jeannette McElroy
5205 Larlin Road
Arbutus, Maryland 21227

Re: CASE NUMBER: 93-15-A
LOCATION: 875 Larlin Road, 94' S Walk Avenue
5205 Larlin Road
13th Election District - 1st Councilmanic

Dear Petitioner(s):

Please be advised that your Petition for Administrative Zoning Variance has been assigned the above case number. Any contact made with this office should reference the case number. This letter also serves as a refresher regarding the administrative process.

1) Your property will be posted on or before August 10, 1992. The closing date is August 24, 1992. The closing date is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. At that time, an Order will issue. This Order may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.

2) In cases requiring public hearing (whether due to a neighbor's formal request or by Order of the Commissioner), the property will be reposted and notice of the hearing will appear in two local newspapers. Charges related to the reposting and advertising are payable by the petitioner(s).

3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$50.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW AND THE DECISION MAKING PROCESS. WHEN THE ORDER IS READY IT WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION PRIOR TO BEING MAILED TO YOU.

Laurence E. Schmidt
Laurence E. Schmidt
Zoning Commissioner, Baltimore County

(SHEET SW-4-0)



BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	93-15-A	S W
DATE OF PHOTOGRAPHY	HALETHORPE	5-D
JANUARY 1986	26	